

FPPC REGULATION AND PROJECT CALENDAR (MARCH 2005 UPDATE)

A. CAMPAIGN

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
<p>1. MCCAIN-FEINGOLD: Under the McCain-Feingold Act, federal law requires that 100% of the costs of a campaign mailing be paid from federal funds if the mailing supports or opposes a federal candidate. In regard to paraphernalia, such as bumper stickers, pins, and door hangings, the law requires a 36%/64% ratio - where 64% is the maximum that can be paid from state funds. The Commission will consider a regulation to simplify compliance with both the Act's reporting requirements and federal law.</p>	IP Meeting	IP Meeting	Pre-Notice	Pre-Notice	Adopt	Adopt						

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
<p>2. SAN FRANCISCO OPINION REQUEST: In a Ranked-Choice Voting System, may a candidate pay for and send mailings to urge voters to rank that sender first and two other candidates in the race as second and third, or would it be a prohibited independent expenditure under section 85501? Also, would the mailing constitute a contribution to either of the other two candidates if there were coordination?</p>	Opinion Request		Adopt Opinion (if needed)									
<p>3. EXTENSIONS OF CREDIT: § 85307. This project will examine whether the Commission should consider a regulation addressing extensions of credit. Staff believes examination of “extensions of credit” by vendors of goods and services would be useful to prevent avoidance of the contribution limits.</p>	IP Meeting		Pre-Notice	Pre-Notice	Adopt	Adopt						

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
<p>4. SB 604-- §§ 84203 and 84204 Consolidate late contribution and late independent expenditure reports with the 24-hour election cycle reports required under §§ 85309 and 85500 Reg. 18116 provides that whenever a filing deadline under the Act falls on a Saturday, Sunday, or official state holiday, the deadline is extended to the next business day. The regulation specifically excludes late contribution and late independent expenditure reports from this extension. Staff proposes to amend regulation 18116 to clarify that all reports required to be filed within 24 hours, including the reports filed under §§ 85309 and 85500, are not allowed the next business day extension. Other clarifying changes will also be made.</p>												
		Pre- Notice		Adopt								

Legislative Project

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
5. REGULATION 18570: Return of Contributions with Insufficient Donor Information. Staff proposes an amendment to reg. 18570 to establish a time line and process for turning money over to the General Fund in cases where a contribution is refunded and the contributor fails to cash the refund check				<u>Pre-Notice</u>		<u>Pre-Notice</u> <u>Adoption</u>			Adopt			
6. § 85701: DISGORGEMENT: Enforcement also proposes that the Commission adopt a regulation implementing the disgorgement requirements of section 85701.				<u>Pre-Notice</u>		<u>Pre-Notice</u> <u>Adoption</u>			Adopt			
7. AFFILIATED ENTITIES (18428): Discusses reporting by "affiliated entities." May be further amended to clarify application of the aggregation provisions to local candidates and committees, add a definition of "affiliated entities," or codify other advice in the area.				IP Meeting		Pre-Notice			Adopt			

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<p>8. HARD AND SOFT MONEY BANK ACCOUNTS: § 85303(a) and (b) set calendar year limits on contributions to recipient committees and party committees for the purpose of making contributions to candidates for elective state office. Section 85303(c) provides that there are no limits on contributions to these committees that are used for purposes other than making contributions to candidates for elective state office. Staff proposes requiring these committees to:</p> <p>(1) establish a noncandidate support (NCS) account; (2) deposit NCS contributions into the NCS account; (3) prohibit the making of contributions from the NCS account; (4) require committees to notify other committees to which NCS funds are transferred that the funds may only be used for NCS purposes.</p>							IP Meeting			Pre-Notice		Adopt

B. CONFLICT OF INTEREST DISQUALIFICATION AND DISCLOSURE

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
<p>1. GIFT TICKETS CLUSTER. Two issues have arisen concerning the value of gifts for disclosure and disqualification provisions of the Act and the gift limit:</p> <p>-----</p> <p>(a) Invitation-Only Events: Advice was provided concerning an invitation-only party hosted by a private entity. The sponsor sent various officials free admission tickets that had no stated purchase price. Historically, the valuation of these passes has been a pro rata share of the total cost. This proposal would codify the valuation rule for these situations, including specifying which tangible and intangible benefits must be included (such as entertainment).</p>	Adopt or 2nd Pre-Notice		Adopt (if needed)									

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<p>(b) Fundraising Events for a 501(c)(3): Reg. 18946.4(b) provides that a ticket or other admission privilege to a 501(c)(3)'s fundraising event has no value. Staff proposes that the Commission revisit reg. 18946.4 and consider amending it to narrow the exception for 501(c)(3) fundraising events. In addition, the Commission will consider changing the valuation method for other gifts of tickets.</p>	Adopt or 2nd Pre-Notice		Adopt (if needed)									

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<p>3. AGGREGATION UNDER § 84308: Section 84308 disqualifies any “officer” who is running or has run for elective office, from participating in decisions affecting his or her campaign contributors. When a closed corp is a party (or participant), the majority shareholder of the corp is also a party (or participant). This project considers whether further clarification of this aggregation rule is necessary.</p>				IP Meeting		Pre-Notice			Adopt			
<p>4. THE GOVT SALARY EXCEPTION. Staff proposes an amendment that would prohibit the official's participation in decisions to appoint the official's immediate family member to a governmental position, and decisions impacting the salary of the official/immediate family where the person is the only person in the job classification or position.</p>			Pre-Notice		Adopt							

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<p>5. REGULATIONS 18741.1; 18746.1: PERMANENT BAN ON POST- EMPLOYMENT ACTIVITIES. Former state officials are prohibited from attempting to influence proceedings in which they participated. A former official has “participated” where he or she has had “personal and substantial” involvement in the proceeding. A supervisor is deemed to have participated in proceedings “pending before” the official’s agency and under his or her supervisory authority. In the <i>Lucas</i> Opinion, O-00-157, the Commission concluded that general administrative responsibilities over a program were insufficient to rise to the level of “personal and substantial” involvement. The Commission will consider conforming changes to the regulations.</p>					Pre- Notice		Adopt					

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6. § 87202 AND § 87204: Assuming and Leaving Office Statements. Staff is recommending that the Commission adopt a regulation clarifying when an official has assumed or left office, triggering the filing of statements of economic interests. Currently, Commission advice for statements of economic interests may be different than the interpretation used in the revolving door context. Staff is also asking the Commission to consider a regulation clarifying filing requirements for alternates and designees.									Pre-Notice		Adopt	
7. SECTION 87350: A regulation is needed clarifying the statement of economic interests filing deadline for designated employees serving more than one joint powers insurance agency who elect to file a "multiagency" statement under § 87350.							Adopt					

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<p>8. REG. 18750.1: PROCEDURE AND STANDARDS FOR REQUESTING EXEMPTION FROM REQUIREMENT TO ADOPT A CONFLICT OF INTEREST CODE: Regulation 18751 sets forth the procedural requisites and substantive bases whereby the Commission may grant an exemption from the requirement that agencies for which the Commission is the code reviewing body (state agencies and local government agencies with jurisdiction in more than one county) adopt a conflict of interest code. Regulation 18751(d)(3) requires that the annual operating budget (exclusive of salaries) for an agency to fall into the exception is less than \$70,000. Should the Commission consider a regulatory change to the \$70,000 threshold?</p>									Adopt			

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<p>9. PROCEDURES FOR THE PROMULGATION AND ADOPTION OF CONFLICT OF INTEREST CODES FOR STATE AGENCIES EXEMPT FROM THE APA: Section 87300 requires every agency to adopt a conflict of interest code. Reg. 18750(c) requires a state agency to prepare a notice of intention to adopt or amend a code and file a copy with the Office of Administrative Law (consistent with the APA) for publication in the California Notice Register. However, some state agencies, such as the UC, the Legislature, and CSUS are exempt from the APA. This project will specify the process used by these exempt agencies.</p>		Pre-Notice	<u>IP Meet</u>	Adopt	<u>Adopt</u>							

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<p>10. Proposition 71 (Stem Cell Research): <u>As part of staff's review of SB 18 and ACR 1, staff noted that two sections of the new law expressly refer to the PRA. These include Health & Safety Code sections 125290.30(g) and 125290.50. Staff believes it is necessary to investigate whether Proposition 71 amended the Act indirectly, and if so, what the Commission's role is in advising on and enforcing these provisions.</u></p>			<p><u>IP Meeting</u></p> <p><u>Pre-Notice and Adopt (TBA)</u></p>									

C. ADMINISTRATIVE, ENFORCEMENT, AND OTHER ISSUES

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1. CONFIDENTIALITY OF ENFORCEMENT CASES. Historically, it has been the policy of the Commission to keep confidential both the existence of and any information discovered in connection with an enforcement investigation until after the investigation has been concluded. Enforcement staff proposes the addition of a regulation, interpreting § 83115 that expressly provides for the confidentiality of investigations, describing the scope of that confidentiality, and any exceptions the Commission may wish to build into it. This regulation could take the form of an amendment to existing reg. 18362, governing "Access to Complaint Files."							IP Meeting		Pre-Notice		Adopt	

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2. PRECEDENTIAL DECISIONS IN ENFORCEMENT ACTIONS. Section 11425.60 of the APA provides general authority to the Commission to designate decisions as precedential. Enforcement is proposing the Commission consider a regulation establishing a precedential decision system and setting forth various criteria for the Commission to consider in determining whether to designate a decision as precedential.							IP Meeting		Pre-Notice		Adopt	
3. SECTION 87302 -- TERMINATED AGENCIES: A regulation is necessary designating a filing officer for statements of economic interests filed by employees of state agencies that go out of business (e.g., DOIT, OCJP).							Pre-Notice			Adopt		

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<p>4. "PUBLIC GENERALLY" AND "LEGALLY REQUIRED PARTICIPATION" AS AFFIRMATIVE DEFENSES: Under the eight-step process, the last two steps (the "public generally" exception and "legally required participation") are affirmative defenses to a conflict-of-interest violation. However, there is no regulatory provision that expressly declares that to be the case. Staff proposes that regulation 18700 be amended to expressly state that the public official has the burden of proving these exceptions.</p>										Pre-Notice		Adopt

D. OTHER MISCELLANEOUS ITEMS

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1. ANNUAL TECHNICAL CLEAN-UP. The Commission annually considers changes to Commission regulations that resulted from the staff's review for technical and other minor changes.									Adopt			
2A. QUARTERLY REVIEW: Quarterly review of work plan and plan updates. B. GOVT. CODE § 1090 MERGER PROJECT -- UPDATE. The Commission directed staff to begin developing language that would merge §§ 1090 et seq., and Public Contracts Code §§ 10410 et seq., into the Act.			Work Plan Revision & 1090 Update			Work Plan Revision & 1090 Update			Work Plan Revision & 1090 Update	2006 Reg. Calendar		2006 Reg. Calendar